



STATE OF NEVADA

Department of Conservation & Natural Resources

Jim Gibbons, Governor

Allen Biaggi, Director

DIVISION OF ENVIRONMENTAL PROTECTION

Leo M. Drozdoff, P.E., Administrator

October 25, 2007

NOTICE OF DECISION

PERMIT NUMBER NV0023027

ROCKVIEW FARMS, INC.

PONDEROSA DAIRY

The Nevada Division of Environmental Protection, Bureau of Water Pollution Control (Bureau) has decided to issue National Pollutant Discharge Elimination System (NPDES) Permit NV0023027 authorizing the increased discharge of manure and process wastewater to groundwater and surface water via land application, irrigation, and stormwater runoff in accordance with a Bureau approved Nutrient Management Plan (NMP) at the Ponderosa Dairy in Amargosa Valley. The discharge is limited to the nitrogen agronomic rates of the crops to be grown and production area overflow resulting from a storm greater than the 25-year, 24-hour storm event. Runoff from land application areas where manure and/or process wastewater have been applied in accordance with an NMP is not regulated. Sufficient information has been provided, in accordance with Nevada Administrative Code (NAC) 445A.228 through NAC 445A.263, to assure the Bureau that the waters of the State will not be degraded from this operation and that public safety and health will be protected.

This permit will become effective November 4, 2007. The final determination may be appealed to the State Environmental Commission pursuant to Nevada Revised Statutes 445A.605 and NAC 445A.407. The appeal must be requested within ten (10) days of the date of this notice of decision and in accordance with the administrative rules of the Commission.

RESPONSE TO COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD

Letter from Curt Stengel of Amargosa Valley, NV received March 7, 2007.

1.1

Comment: "What specific field sites are to receive the application of manure and/or waste water?"

Response: As stated in the NV0023027 fact sheet and draft permit, manure and process wastewater may be applied to Ponderosa Dairy fields 1, 2, 3, 4, 5, 6, 18, and 21 and process wastewater may be applied to fields 12, 15, and 17. Maps identifying the location of these fields are contained in the NMP.

1.2

Comment: "What proximity to these fields do people reside?"

Response: The closest residence to any of the land application fields is approximately 0.5 mile.

1.3

Comment: "Does NDEP ever contact the residents near the fields for their comments?"

Response: Per NAC 445A.234, public notice of every complete application for a discharge permit is circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny a permit for the discharge.

22.3

Comment: "Are they not rated the same as that bed [bentonite]line[d]?"

Response: "They're -- they're both going to be -- they both meet the standard [liner] requirements."

22.4

Comment: "And is that requirement -- like, for example, if I'm covering one acre of land, I'm allowed one-acre foot of leakage per year?"

Response: "There is going to be leakage through those liners, yes."

Per Recommended Standards for Wastewater Facilities, 2004 edition, Wastewater Committee of the Great Lakes – Upper Mississippi River "To achieve an adequate seal in systems using soil, bentonite, or other seal materials, the hydraulic conductivity (k) in centimeters per second specified for the seal shall not exceed the value derived from the following expression where L equals the thickness of the seal in centimeters:

$$k = 2.6 \times 10^{-9}L$$

The k obtained by the above expression corresponds to a percolation rate of pond water of less than 500 gallons per day per acre at a water depth of 6 feet and a liner thickness of 1 foot, using the Darcy's law equation.'

22.5

Comment: "So you -- you agree that the lined pond and the synthetic lined ponds do not prevent leakage to the groundwater -- leakage is still going to go through to the groundwater?"

Response: "It will leak through. Will it get to groundwater (unintelligible). It's going to depend on the [leakage] rate."

Soil permeability, depth to groundwater, and other factors.

22.6

Comment: "I know that in court cases the experts have agreed that the synthetic liners will not prevent the leaking into the ground. It's only when."

Response: "These -- these facilities need --"

See response to comment 22.4.

22.7

Comment: "(Unintelligible) manure."

Response: "There is no perfect liner, but these [liners] meet the state [liner] requirements."

22.8

Comment: "Then why is there no liner barrier with monitoring underneath the sealed ponds, such that if there's a leak in the pond, we will know it?"

Response: "Because we [the bureau] did not feel that that [it] was necessary [to regulate CAFOs the same as wastewater treatment plants]for a dairy facility."

See response to comment 2.2.

22.9

Comment: "Me to tell me that our health is not necessary for protection?"

Response: "No, that's not what I was saying."

22.10

Comment: "Well, that's the way it sounds."

Response: "Okay. Well, I think we should move on. I -- I don't think that we can get anywhere with this discussion."

The liners at this facility comply with the State's regulatory requirements.

The Dairy 2 and Dairy 3 pond systems meet the State standards for lined ponds.

Bill Barrackman

23.1

Comment: "The other fact is that -- you know, anything that increases this material is going to increase all the other issues that you've heard about which you are flies. We're not even going to talk about air pollution here, but you're going to hear about it."

Response: Comment noted.

42.7

Comment: "Another thing that's happening in this valley, people become infected with pathogens from effluent. The technology exists now to do molecular DNA profiling, and to identify the source of these infections. And there are certain individuals, I think that are going to be held responsibility if people in this valley are getting sick. I think you should know that."

Response: Comment noted.

42.8

Comment: "Now, the other thing that comes up -- it's not clear to me -- maybe you can clarify for us. Are monitoring wells required to lined ponds?"

Response: "For concentrated applicating indicating [CAFO] applications?"
See response to comment 5.5.

42.9

Comment: "It's pretty well -- at least the information I have -- established in the industry that these liners do leak, and it would seem to me that it would be prudent to continue to monitor in the area of these lagoons."

Response: See responses to comments 5.3 and 5.5.

42.10

Comment: "Now, when we not only talked about leakage from the lagoons to be concerned about, but let's -- let's -- let's give you that the lagoon is not in a leak. But you're taking out material and you're applying it to the land. And in addition to that, you're putting more water on top of that that's going to push that into the ground."

"I think it's certainly called for, for -- to have monitoring wells on these dairy properties, not just necessarily next to the lagoons, but down gradient, whatever that is, from -- from the fields where this material is applied, to see what's happening to the groundwater -- not ground water. That would be a strong recommendation."

Response: The Bureau does not require groundwater monitoring at sites that receive process wastewater and/or manure in accordance with an NMP/CNMP.

42.11

Comment: "I also think that these dairies should be bonded. You know, markets being what they are, prices fluctuate, apparently they're doing well now and I hope they continue to do well but if they go out of business and they have to move off this land or they decide to take advantage of - - you know land prices, water values and so ongoing up and they sell out and move out, they've left quite a mess over there as they did in Pahrump."

"Now, I understand that that's being cleaned up and so on. But I certainly feel that a bond should be in place to cover these operations."

"And I think that should be a part of your -- your permitting procession. It may not be in the law but you should certainly consider it."

Response: The bonding of CAFOs is beyond the regulatory authority of the Bureau.
Comment noted.

42.12

Comment: "Now, I -- I have a little difficulty understanding these permits in terms of cow numbers. You

“If samples were taken, we should have that information.”
See response to comment 59.3.

59.5

Comment: “You should. That way you'd have a base to go on (unintelligible) the dairies.”

Response: “But we're not monitoring the groundwater other than at –[the permitted facility].
See response to comment 59.3.

59.6

Comment: “It's not the groundwater that they're monitoring. It's the same water -- it's the same damn thing you're trying to monitor. And you're telling us you don't have the records of it? Well, look in your department.

“You're not the doing your job, evidently. I hate to say it, but that's my -- my opinion. Nobody else's. It's mine. I'm sorry, but that's the way it is.”

Response: The Bureau has extensive data on the quality of the process wastewater. Quarterly monitoring of the total nitrogen concentration in the process wastewater began in June 2000 with the initial issuance of NV0023027.

ADDITIONAL PERMIT CHANGE

Due to the length of time, from the February 8, 2007 publication of the draft permit notice of proposed action to the October 25, 2007 permit issuance, it was necessary to add the year 2012 crop rotations to the table in Part I.A.3.d. to allow the Permittee five years of operation under this permit. Since these are the same crops and nutrient application rates as were proposed in the draft permit for 2011, public notice of this adjustment is not required. The revised Ponderosa Dairy Comprehensive Nutrient Management Plan is available in the Bureau's Carson City office for public review.